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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

GUILLERMO LEYVA,

Defendant and Appellant.

B263386

(Los Angeles County
Super. Ct. No. BA419378)

THE COURT:*

In this appeal, Guillermo Leyva (Leyva) challenges the order denying his motion for resentencing under Proposition 47. His appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441 (*Wende*) raising no issues for us to consider. On August 20, 2015, we notified Leyva of his counsel's brief and gave him leave to file, within 30 days, a brief or letter setting forth any arguments supporting his appeal. He filed a timely letter on September 4, 2015. Upon review of counsel's *Wende* brief, Leyva's letter and the record, we conclude that there are no arguable issues, and Leyva is not entitled to appellate relief.

* BOREN, P. J., ASHMANN-GERST, J., HOFFSTADT, J.

Proposition 47 was effective November 5, 2014, and added Penal Code section 1170.18, subdivision (a).¹ (*People v. Hoffman* (2015) 2015 Cal.App. LEXIS 991, *4–5.) Section 1170.18, subdivision (a) provides: “A person currently serving a sentence for a conviction, whether by trial or plea, of a felony or felonies who would have been guilty of a misdemeanor under the act that added this section (‘this act’) had this act been in effect at the time of the offense may petition for a recall of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing in accordance with Sections 11350, 11357, or 11377 of the Health and Safety Code, or Section 459.5, 473, 476a, 490.2, 492, or 666 of the Penal Code, as those sections have been amended or added by this act.”

When assessing a claim under Proposition 47, a reviewing court must determine whether the defendant was convicted of a felony offense that qualifies for misdemeanor sentencing. Here, Leyva was convicted of sale or transportation of a controlled substance under Health and Safety Code section 11352, subdivision (a). Because that statute was not amended by Proposition 47, Leyva is not eligible for recall of sentence and resentencing.

In his letter brief, Leyva argues that his conviction violated due process. This argument is not relevant to the propriety of the challenged order. Consequently, we decline to delve into any due process issues.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

We are satisfied that Leyva's counsel complied with her responsibilities. We conclude that Leyva has received adequate and effective appellate review of the judgments entered against him by virtue of counsel's compliance with the *Wende* procedure, and our review of the record. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 123–124.)

The judgment is affirmed.

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